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Attorneys for Defendant
McCormick & Schmick Restaurant Corp.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
AT PORTLAND

**AMY MITCHELL, in her capacity as
Chapter 7 Trustee for the BANKRUPTCY
ESTATE OF ARNICA PUBLISHING, INC.,**

Plaintiff,

v.

**McCORMICK & SCHMICK
RESTAURANT CORP., a Delaware
corporation,**

Defendant.

Case No. 3:13-cv-02294-ST

ANSWER TO COMPLAINT

For answer to the plaintiff's complaint, defendant McCormick & Schmick Restaurant Corp. admits, denies and alleges as follows:

1. Denies the allegations of paragraph 1.
2. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 2 and so denies the same.
3. Admits the allegations of paragraph 3.
4. Admits the allegations of paragraph 4.

5. Admits the allegations of paragraph 5.

6. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 6 and so denies the same.

7. Denies the allegations of paragraph 7, except admits that defendant's cookbook was bundled with its gift cards and sold at Costco.

8. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 8 and so denies the same.

9. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 9 and so denies the same.

10. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 10 and so denies the same.

11. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 11 and so denies the same.

12. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12 and so denies the same.

13. Admits the allegations of paragraph 13.

14. Denies the allegations of paragraph 14.

15. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 15 and so denies the same.

16. Defendant admits and denies, as set forth above, the allegations in the paragraphs re-alleged in paragraph 16.

17. Denies the allegations of paragraph 17.

18. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 12 and so denies the same.

19. Denies the allegations of paragraph 19.

20. Denies the allegations of paragraph 21.

21. Defendant admits and denies, as set forth above, the allegations in the paragraphs re-alleged in paragraph 21.

22. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 22 and so denies the same.

23. Defendant presently lacks knowledge and information sufficient to form a belief as to the truth of the allegations in paragraph 23 and so denies the same.

24. Denies the allegations of paragraph 24.

25. Denies the allegations of paragraph 25.

26. Denies the allegations of paragraph 26.

27. Defendant admits and denies, as set forth above, the allegations in the paragraphs re-alleged in paragraph 27.

28. Denies the allegations of paragraph 28.

29. Denies the allegations of paragraph 29.

30. Except as expressly admitted, denies every allegation in the complaint.

AFFIRMATIVE DEFENSES

31. Plaintiff's third claim for relief is time-barred by 11 USC Sec. 548(a)(1).

32. Defendant is entitled to an offset against any amount otherwise recoverable by plaintiff, for the value of the consideration defendant provided to Arnica in connection with the sale of the Cookbook Bundles to Costco and the Settlement.

33. Plaintiff's claims for avoidance of the Transfer and the Settlement fail to state a claim upon which relief may be granted.

34. Plaintiff's claims for relief with respect to the Transfer are barred by the release included in the Settlement.

COUNTERCLAIM

35. Pursuant to the terms of the Settlement Agreement, defendant is entitled to an award of its attorney fees and costs incurred herein.

WHEREFORE, defendant prays for judgment dismissing plaintiff's complaint and awarding defendant its attorney fees, costs and disbursements incurred herein.

DATED this 21st day of March, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **ANSWER TO COMPLAINT** on:

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Of Attorneys for Plaintiff

☒ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said attorney's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said attorney's address as shown above on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said attorney's last-known address on the date set forth below;

☐ by faxing a copy thereof to said attorney at his/her last-known facsimile number on the date set forth below; or

☐ by emailing a copy thereof to said attorney at his/her last-known email address as set forth above.

Dated this 21st day of March, 2014.

DAVIS WRIGHT TREMAINE LLP

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McCormick & Schmick Restaurant Corp.